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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

CIVITAF CORPORATION, a California
 Corporation,

Plaintiff,

v.

FEDERATED MUTUAL INSURANCE
 COMPANY, a Minnesota Corporation,
 FRONTIER INSURANCE COMPANY, a
 New York Corporation, and DOES 1
 through 20, inclusive,

Defendants.

Action No.: C-05-00595 JW (HRL)

JOINT EX PARTE APPLICATION FOR
 EXTENSION OF EXPERT-DISCLOSURE
 AND EXPERT-MOTION DEADLINES;
 DECLARATION OF THOMAS NIENOW;
 ORDER.

Date: No Hearing
 Time: No Hearing
 Courtroom.:8
 HONORABLE JAMES WARE

JOINT EX PARTE APPLICATION

Plaintiff Civitaf Corporation and defendant Federated Mutual Insurance Company,
 jointly request that the Court enter an order under Fed.R.Civ.P. 6(a), extending by 14 days
 the deadlines for expert-witness disclosures, rebuttal expert-witness disclosures, and to
 file motions to exclude all or part of an expert witness's testimony. The bases for the



1 request are as follows:

2 1. Fed.R.Civ.P. 6(a) states that when, by order of court, "an act is required or
3 allowed to be done at or within a specified time, the court for cause shown may at any
4 time in its discretion ... with or without motion or notice order the period enlarged if
5 request therefor is made before the expiration of the period originally prescribed"

6 Under the Court's August 9, 2005, scheduling order, the current deadlines relating to
7 expert-witnesses are as follows:

8 November 15, 2005 Expert-witness disclosures.

9 November 29, 2005 Rebuttal expert-witness disclosures.

12 Because none of these deadlines has passed, the Court is authorized to grant the
13 extensions of the deadlines in the scheduling order upon ex parte application. N.D. Cal.
14 L.R. 7-10.

15 2. In this insurance-coverage action, Civitaf seeks defense and indemnification
16 from Federated in connection with Civitaf's alleged liability in an underlying
17 construction-defect lawsuit styled *Amica Mut. Ins. Co. v. Civitaf Corp. et al.*, filed in
18 Santa Clara County Superior Court (No. 1-04-CV-017010). Civitaf and Federated are
19 both parties to the *Amica* action.

20 3. A global mediation is scheduled in the *Amica* action for November 17,
21 2005. If the mediation resolves the *Amica* action, Civitaf and Federated believe it will
22 likely also resolve the issues between Civitaf and Federated in this action. In that case,
23 disclosure of expert-witness information and filing of motions to challenge expert-witness
24 testimony will not be necessary. In order to prevent the expenditure of resources on pre-
25 trial activities that may be unnecessary following the global mediation in the *Amica*
26 action, Civitaf and Federated respectfully request that the current deadlines for expert-
27 witness disclosures and rebuttal expert-witness disclosures be extended by 14-days each.
28 Civitaf and Federated also respectfully request that the Court extend by 14-days the

1 deadline to hear motions to exclude expert-witness testimony, in order to preserve the
2 Court's timing of such motions relative to the disclosures.

3 4. The following deadlines in the Court's August 9, 2005, order will remain
4 unchanged:

5	December 15, 2005	Last day to complete mediation.
6	January 17, 2006	Last day to hear motions to exclude all or part of an 7 expert's testimony.
8	January 20, 2006	Last day to conduct discovery of expert witnesses.
9	February 27, 2006	Last day to hear dispositive motions.
10	March 30, 2006	Last day to lodge Preliminary Pretrial and Trial Setting 11 Conference Statement and Proposed Order.
12	April 10, 2006	Preliminary Pretrial and Trial Setting Conference.

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Respectfully submitted,

15 NIELSEN, HALEY & ABBOTT LLP

16 17 November 7, 2005

By:

18 Thomas H. Nienow
19 Attorneys for Defendant
20 FEDERATED MUTUAL INSURANCE COMPANY

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Respectfully submitted,

23 SWEENEY, MASON, WILSON & BOSOMWORTH

24

25 November 8, 2005

By:

26 Christopher J. Olson
27 Attorneys for Plaintiff
28 CIVITAF CORPORATION

DECLARATION OF THOMAS H. NIENOW

I, Thomas H. Nienow, declare as follows:

I am an attorney admitted to practice before this Court, and I am of counsel with Nielsen, Haley & Abbott LLP, counsel of record for defendant Federated Mutual Insurance Company in this action. The facts stated in the above Joint Ex Parte Application are true and correct.

Executed under penalty of perjury under the laws of the United States on
November 7, 2005, at San Francisco, California. /


Thomas H. Nienow

ORDER

The Court, having read the above Joint Ex Parte Application for Extension of expert-witness disclosures, rebuttal expert-witness disclosures, and hearing of motions to exclude all or part of an expert witness's testimony, and good cause appearing, hereby grants the joint application and extends each deadline by 14-days. The remaining deadlines set forth in the Court's August 9, 2005, order shall remain unchanged. The pre-trial deadlines in this matter are now as follows:

November 29, 2005	Expert-witness disclosures.
December 13, 2005	Rebuttal expert-witness disclosures.
December 15, 2005	Last day to complete mediation.
January 20, 2006	Last day to conduct discovery of expert witnesses.
February 27, 2006	Last day to hear dispositive motions.
January 31, 2006	Last day to hear motions to exclude all or part of an expert's testimony.

3 April 10, 2006 Preliminary Pretrial and Trial Setting Conference.

6 Dated: November 10, 2005

James Ware, U.S. District Judge

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